

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NUMBER: 04-11937-DPW

FILED
IN CLERKS OFFICE

2005 FEB -7 A 10:57

U.S. DISTRICT COURT
DISTRICT OF MASS.

* * * * *
ROBERT L. JOHNSON,
Plaintiff,
v.
TOWN OF SANDWICH, MARYGAIL ALESSE,
PATRICK R. ELLIS, ROBERT S. JONES,
DIANE T. TUCKER, JOHN S. JILLSON,
JAN L. TEEHAN, and GEORGE H. DUNHAM,
Defendants
* * * * *

**PLAINTIFF'S AFFIDAVIT
IN OPPOSITION TO THE
DEFENDANTS' MOTION TO
DISMISS**

I, Robert L. Johnson, first being duly sworn, do depose and say as follows:

1. I have personal knowledge of the facts set forth herein, and I am competent to testify to the matters stated herein.
2. Where such knowledge is based upon information or belief, I will so state, and I believe the same to be true.
3. I am the Plaintiff in the above-captioned matter, and I make this affidavit in support of the Plaintiff's Opposition to the Defendants' Motion to Dismiss.
4. On May 2, 1998, I took the state wide Civil Service Exam for the position of Police Chief for the Town of Sandwich, along with other officers of the Department and Police Officer residents within the Town of Sandwich, and I passed that exam, placing second on the state wide list dated August 7, 1998. See copy of Notice annexed hereto and marked as Exhibit "A".
5. On October 28, 1998 Civil Service sent a list of six (6) names

to the Town of Sandwich with three (3) candidates indicating that they would accept appointment as Police Chief for the Town of Sandwich. See Civil Service List annexed hereto and marked as Exhibit "B".

6. After receiving that list, pursuant to G.L. c. 31, § 15, the Town of Sandwich was required to terminate the provisional appointment of Lt. Paul Harrington and appoint me as Acting Chief pending a decision by the Board of Selectman as to which of the three (3) candidates on that list that they would appoint.
7. The Town refused to appoint me as the Acting Chief; and I appealed that refusal to Civil Service.
8. On January 21, 1999, the Town of Sandwich Board of Selectman voted unanimously to "by-pass" me from being permanent chief; and I appealed that decision to Civil Service.
9. During the next year there were various hearings with Civil Service in which the Town continued to oppose my appointment as acting and permanent Chief, and I allege that this was continual discrimination that these Defendants engaged in by constantly opposing my appointment, which was ongoing and continuous discrimination against me.
10. On February 14, 2000, the Town of Sandwich committed their last act of discrimination against me by appointing a younger candidate, not disabled, and had far less experience than me for the position of Chief. See attested copy of Memorandum from the Town Administrator's Office dated February 24, 2000

annexed hereto and marked as Exhibit "C".

11. I filed an appeal to Civil Service based on the appointment of Michael J. Miller as the permanent Chief of Police.
12. On August 11, 2000, within the six (6) month Statute of Limitations of the MCAD, and well within the three hundred (300) day Statute of Limitations of the EEOC, and prior to receiving any decisions as yet from Civil Service, I filed my charge of discrimination with the MCAD, which created a simultaneous filing with the EEOC, so that it would not be time barred even though I have not received a decision from Civil Service. See copy of Charge of Discrimination annexed hereto and marked as Exhibit "D".
13. I originally filed my Complaint with the Massachusetts Commission Against Discrimination (MCAD), which was also a simultaneous filing with the United States Equal Employment Opportunity Commission (EEOC), on August 11, 2000.
14. The matter was heard before the MCAD, and then referred to the EEOC, with an adverse ruling dated June 7, 2004. See copy of EEOC Dismissal and Notice of Suit Rights form, annexed hereto and marked as Exhibit "E".
15. Pursuant to the Dismissal and Notice of Suit Rights form from the EEOC, I was given Notice that my lawsuit under Federal Law must be filed within ninety (90) days of my receipt of this Notice. (See Exhibit "E".)
16. Sometime during the week following June 7, 2004, I received the Dismissal and Notice of Rights form from the EEOC. (See

Exhibit "E".)

17. I filed my Verified Complaint and Civil Action Cover Sheet with this Honorable Court on September 3, 2004. (See copy of cover letter and Civil Action Cover Sheet, both date stamped September 3, 2004, annexed hereto and collectively marked as Exhibit "F".)
18. I filed my Amended Complaint thereafter, and served all of the Defendants herein.
19. Accordingly, my Complaint under Federal Law was timely filed within the appropriate Statute of Limitations of the EEOC, and a Dismissal and Notice of Rights form issued by the EEOC, the last one being on November 30, 2004. See Exhibit "G".

SWORN and subscribed to under the pains and penalties of perjury this day, February 3, 2005.

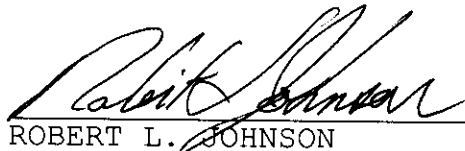

ROBERT L. JOHNSON

EXHIBIT "A"

LOCATION: SANDWICH
 1 PERM F-T POLICE CHIEF
 SELECTION MUST BE OF

1 OF THE FIRST

3 HIGHEST WHO WILL ACCEPT

Application No.	Name and Address of Eligible Applicants Notified to Report for Interview	Eligibility Expires	Per Cent	Report on Certification					
				FAILED TO RESPOND	DECLINED APPOINTMENT	OTHER REPORT (STATE BELOW)	WILLING TO ACCEPT	SELECTED FOR APPOINTMENT	
	FALCO, WILLIAM F 6 LECLAIR DRIVE HINGHAM 02043	**	87.00						
<input type="checkbox"/> I WILL accept the appointment.	<input type="checkbox"/> I WILL NOT accept the appointment.	Applicant's Signature:-							
	JOHNSON, ROBERT L 5 MOODY DRIVE SANDWICH 02563	**	76.00						
<input type="checkbox"/> I WILL accept the appointment.	<input type="checkbox"/> I WILL NOT accept the appointment.	Applicant's Signature:-							
	MCNEIL, JAMES A 11 EUSTIS WOLLASTON 02170	*	26.00						
<input type="checkbox"/> I WILL accept the appointment.	<input type="checkbox"/> I WILL NOT accept the appointment.	Applicant's Signature:-							
	GILLESPIE, RICHARD J 29 CREEK ST WRENTHAM 02093	*	85.00						
<input type="checkbox"/> I WILL accept the appointment.	<input type="checkbox"/> I WILL NOT accept the appointment.	Applicant's Signature:-							
	GEMME, GARY J 6 CRESTLAN DRIVE WORCESTER 01604	*	84.00						
<input type="checkbox"/> I WILL accept the appointment.	<input type="checkbox"/> I WILL NOT accept the appointment.	Applicant's Signature:-							
	STUDENSKI, PAUL F 48 CARLISLE STREET BROCKTON 02402	*	84.00						
<input type="checkbox"/> I WILL accept the appointment.	<input type="checkbox"/> I WILL NOT accept the appointment.	Applicant's Signature:-							
	0								
<input type="checkbox"/> I WILL accept the appointment.	<input type="checkbox"/> I WILL NOT accept the appointment.	Applicant's Signature:-							
	12/09/98								
<input type="checkbox"/> I WILL accept the appointment.	<input type="checkbox"/> I WILL NOT accept the appointment.	Applicant's Signature:-							
<input type="checkbox"/> I WILL accept the appointment.	<input type="checkbox"/> I WILL NOT accept the appointment.	Applicant's Signature:-							
<input type="checkbox"/> I WILL accept the appointment.	<input type="checkbox"/> I WILL NOT accept the appointment.	Applicant's Signature:-							
<input type="checkbox"/> I WILL accept the appointment.	<input type="checkbox"/> I WILL NOT accept the appointment.	Applicant's Signature:-							



EXHIBIT "B"

CODE: 0083E
REQUISITION NUMBER: 980068
CARE OF SELECTMEN

Case 1:04-cv-11937-DPW

Document 23

Filed 02/07/2005 DATE 10/28/98 Page 8 of 28

PAGE: 1

MARYGAIL ALESSE - CHAIRMAN
SANDWICH POLICE DEPT
117 ROUTE 6A
SANDWICH 02563

LOCATION: SANDWICH
1 PERM F-T POLICE CHIEF
SELECTION MUST BE OF

1 OF THE FIRST

3 HIGHEST WHO WILL ACCEPT

Application No.	Name and Address of Eligible Applicants Notified to Report for Interview	Eligibility Expires	Per Cent	Report on Certification				
				FAILED TO RESPOND	DECLINED APPOINTMENT	OTHER REPORT (STATE BELOW)	WILLING TO ACCEPT	SELECTED FOR APPOINTMENT
	FALCO, WILLIAM F 5 LECLAIR DRIVE HINGHAM 02043	**	87.00					
<input type="checkbox"/>	I WILL accept the appointment.	<input type="checkbox"/>	I WILL NOT accept the appointment.	Applicant's Signature:				
	JOHNSON, ROBERT L 5 MOODY DRIVE SANDWICH 02563	**	76.00					
<input checked="" type="checkbox"/>	I WILL accept the appointment.	<input type="checkbox"/>	I WILL NOT accept the appointment.	Applicant's Signature: <i>Robert Johnson</i>				
	MOREIL, JAMES A 11 EUSTIS HOLLASTON 02170	*	86.00					
<input type="checkbox"/>	I WILL accept the appointment.	<input type="checkbox"/>	I WILL NOT accept the appointment.	Applicant's Signature:				
	GILLESPIE, RICHARD J 29 CREEK ST WRENTHAM 02093	*	85.00					
<input checked="" type="checkbox"/>	I WILL accept the appointment.	<input type="checkbox"/>	I WILL NOT accept the appointment.	Applicant's Signature: <i>Richard J. Gillespie</i>				
	GEMME, GARY J 6 CRESTLAN DRIVE WORCESTER 01604	*	84.00					
<input checked="" type="checkbox"/>	I WILL accept the appointment.	<input type="checkbox"/>	I WILL NOT accept the appointment.	Applicant's Signature: <i>Gary J. Gemme</i>				
	STUDENSKI, PAUL F 43 CARLISLE STREET BROCKTON 02402	*	84.00					
<input type="checkbox"/>	I WILL accept the appointment.	<input type="checkbox"/>	I WILL NOT accept the appointment.	Applicant's Signature:				
	0							
<input type="checkbox"/>	I WILL accept the appointment.	<input type="checkbox"/>	I WILL NOT accept the appointment.	Applicant's Signature:				
	12/09/98							
<input type="checkbox"/>	I WILL accept the appointment.	<input type="checkbox"/>	I WILL NOT accept the appointment.	Applicant's Signature:				
<input type="checkbox"/>	I WILL accept the appointment.	<input type="checkbox"/>	I WILL NOT accept the appointment.	Applicant's Signature:				
<input type="checkbox"/>	I WILL accept the appointment.	<input type="checkbox"/>	I WILL NOT accept the appointment.	Applicant's Signature:				
<input type="checkbox"/>	I WILL accept the appointment.	<input type="checkbox"/>	I WILL NOT accept the appointment.	Applicant's Signature:				
<input type="checkbox"/>	I WILL accept the appointment.	<input type="checkbox"/>	I WILL NOT accept the appointment.	Applicant's Signature:				

135M-12-90-G552127

SEE REVERSE SIDE FOR FURTHER INSTRUCTIONS AND APPOINTING AUTHORITY'S SIGNATURE

EXHIBIT "C"

TOWN OF SANDWICH

THE OLDEST TOWN ON CAPE COD

130 MAIN STREET
SANDWICH, MASSACHUSETTS 02563
TELEPHONE 508-888-4910
FAX 508-888-8655



BOARD OF
SELECTMEN

TOWN
ADMINISTRATOR

MEMORANDUM

TO: Michael J. Miller, Chief of Police
FROM: George H. Dunham, Town Administrator
DATE: February 24, 2000

SUBJECT: Terms of Appointment as Chief of Police

This is to confirm the terms of your appointment as Chief of Police which became effective on Monday, February 14, 2000 at 12:00 p.m. The Board of Selectmen appointed you Chief of Police at its January 27, 2000 meeting pending the required approval of the Human Resources Division. This authorization was received in time for you to be formally sworn in to your new duties on February 14, 2000 at noon.

As we agreed last week, your total compensation will be based on an annual salary of \$83,000 which will be effective through June 30, 2001. In light of your 25% educational incentive for having a Master's of Public Administration, your base salary prior to any Quinn Bill adjustments is \$66,400. You will not receive any additional holiday pay for working any of the eleven holidays recognized by the Town, but can use compensatory time off for the holidays you decide or are required to work. Your vacation and sick leave benefits will continue at their current levels, and all other benefits for non-union employees are covered in the Personnel Policies and Guidelines (PP&G), a copy of which I provided to you.

You had provided me with a sample employment contract for the Selectmen to consider. As we discussed, the Board did not want to enter into such a contract since no other department head has a personal employment agreement and because virtually all of the issues raised in the sample contract are already covered by civil service regulations, state law, or local practice. The provisions of G.L. c.41, §97A, the so-called strong Police Chief law previously adopted by Town Meeting, give you further protection and authority beyond any other Town employee. I will address the employment issues we discussed below which were being considered part of a proposed contract.

Duties. The primary duties for the Chief of Police are outlined in the position description approved by the Selectmen and Personnel Board. This document was

A TRUE COPY ATTEST

TOWN CLERK
SANDWICH

reviewed during the interview process for the opening and covers the duties outlined in the sample contract.

Hours of Work. Hours of work are covered in PP&G. Salaried department heads are expected to work whatever time is necessary to accomplish their work. The policy for compensatory time is found in the PP&G.

Indemnification. Not only does the Town have general liability insurance coverage for employees, it has specialty coverage for police professional liability, and Town Meeting also previously adopted further indemnification coverage for any Town employee sued as a result of their professional duties and actions.

Professional Liability Insurance. Again, the Town carries additional Police Professional Liability coverage for all certified officers, including the Chief of Police.

Disability Insurance. The Town does not provide separate disability insurance for employees. It does, however, provide similar type of coverage through the Barnstable County Retirement Association. As you know, any personal or work-related disability which occurs after an employee has worked ten years in the retirement system leads to protection under the Retirement Association.

Miscellaneous. All Town employees who are expected to work at least 1,040 hours in a year are entitled to health insurance benefits, of which the Town pays 75% of the premium. Optional life insurance is also offered by the Town for all of its full time employees.

Injured on Duty. As you know, all public safety officers in the police and fire departments are covered by the provisions of G.L. c. 41, §111F. This statute provides wage and medical coverage above and beyond the protections of the Retirement Association in the event an officer is injured in the line of duty.

Dues and Subscriptions / Professional Development. As we discussed, you are entitled and encouraged to maintain membership in relevant professional associations such as the International Association of Chiefs of Police and the Massachusetts Police Chief's Association. As long as sufficient funds have been budgeted, the Town will pay for these memberships and relevant meetings which you believe will be of professional benefit to you and the Town. The only instance when participation would be a problem would be if it was so frequent that it interfered with the ability to complete work obligations and responsibilities.

Automobile. You will be provided with a police vehicle as Chief of Police and all relevant operating and maintenance expenses and insurance will be paid by the Town. This vehicle is to be used in connection with your professional duties and it can also be used for personal instances when it is likely you will need to professionally respond to duty.

Death During Employment. As is standard practice, any Town employee who dies prior to retirement will be compensated for any earned, accumulated and unused vacation leave.

Discipline or Discharge. While provisions for discipline and discharge for non-union employees are addressed in the PP&G, civil service regulations provide you with greater protection and additional procedures the Town must follow for any discipline or discharge. Civil Service procedures also provide additional appeal rights to which other non-union employees are not entitled. Also, periodic performance evaluations will be conducted similar to all other department heads.

I believe this addresses all of the issues we discussed in negotiating your salary and the terms of your employment. Any specific issues not addressed in this memorandum will be covered by the relevant provisions of the PP&G. Please let me know if you have any questions.

Finally, I want to congratulate you once again on your recent appointment. I also want to commend you on how you have personally handled this transition period and the publicity surrounding your appointment. I look forward to working with you and am confident we will have a productive and open working relationship. Do not hesitate to contact me at any time if you ever have thoughts about an issue under consideration or if you have concerns about how I am handling or addressing an issue. Congratulations once again.

Michael J. Miller 2/26/00

cc: Board of Selectmen
Town Accountant
Town Treasurer

AUTHORIZATION OF EMPLOYMENT FORM FORM 14

HUMAN RESOURCES DIVISION

City or Town Sandwich, MA Date 2/3/00
 Department Police Department Division _____
 Requisition/Certification Number FEB 14 2000

TO THE APPOINTING OFFICER:

Authority is hereby given to fill the vacancy(ies) identified on the above referenced requisition by selecting from among the applicants listed on the attached certification in accordance with the instructions which appear thereon.

DESCRIPTION OF POSITION: CHIEF OF POLICE

Position Title: Chief of Police Number of Vacancies: 1 Salary Rate: Negotiated
 Permanent ☒ Temporary ☐ Military Substitute ☐ Full Time ☒ Part Time ☐
 Intermittent ☐ Reserve ☐


 Personnel Administrator


NOTIFICATION OF EMPLOYMENT UNDER THE ABOVE AUTHORIZATION

To the Personnel Administrator:


As the legal Appointing Authority I have selected the undersigned individuals for appointment (or promotion) in accordance with the law and the above authorization as follows:

I, the signed appointee, hereby certify, under the penalties of perjury, that I have not paid and have agreed not to pay, and to the best of my knowledge, no other person has paid nor agreed to pay any money or other thing of value to any person in anticipation or as a result of my appointment. I hereby accept the appointment with the understanding that, under the Civil Service Law and Rules, appointments are governed as follows:

- Permanent appointments are subject to a probationary period of six months (twelve months for police and fire forces).
- Temporary appointments are for the duration of the vacancy.
- Military substitute appointments are temporary subject to the provisions of Chapter 708, Acts of 1941, as amended.

Date of Birth	Name	Home Address	S.S. # of Appointee	Employment Date	Appointee's Signature
5/7/52	Michael J. Miller	014-44-8910 P.O. Box 232, 34 Turtle Cove Road Sandwich, MA 02563		2/14/00	

Approved
Human Resources Division

By:  2-9-2000

*See reverse of this form

Signed: _____



(Officer authorized by law to make appointments)

R. Patrick Ellis, Chairman, Board of Selectmen

Name (please print or type) Title

If appointee is in military service, statement to that effect should be made.

This form must be properly completed, returned to the Human Resources Division and approved before the Auditor will authorize payment of salary. Please file reports early enough to eliminate the necessity of withholding pay.

EXHIBIT "D"

CHARGE OF DISCRIMINATION

This form is affected by the Privacy Act of 1974; see Privacy Act Statement on reverse before completing this form.

ENTER CHARGE NUMBER

☐ FEPA 00132499☐ EEOC

MASSACHUSETTS COMMISSION AGAINST DISCRIMINATION

(State or local Agency, if any)

and EEOC

NAME (Indicate Mr., Ms., or Mrs.)

MR. ROBERT L. JOHNSON

HOME TELEPHONE NO. (Include Area Code)

(508) 888-0755

STREET ADDRESS

5 MOODY DRIVE

CITY, STATE AND ZIP CODE

SANDWICH, MA 02563

COUNTY

BARNSTABLE

NAMED IS THE EMPLOYER, LABOR ORGANIZATION, EMPLOYMENT AGENCY, APPRENTICESHIP COMMITTEE, STATE OR LOCAL GOVERNMENT AGENCY WHO DISCRIMINATED AGAINST ME (If more than one list below.)

NAME

TOWN OF SANDWICH

NO. OF EMPLOYEES/MEMBERS

20+

TELEPHONE NUMBER (Include Area Code)

(508) 888-4910

STREET ADDRESS

MUNICIPAL BUILDING 130 MAIN STREET

CITY, STATE AND ZIP CODE
SANDWICH, MA 02563

NAME

TELEPHONE NUMBER (Include Area Code)

STREET ADDRESS

CITY, STATE AND ZIP CODE

CAUSE OF DISCRIMINATION BASED ON (Check appropriate box(es))

☐ RACE☐ COLOR☐ SEX☐ RELIGION☐ NATIONAL ORIGIN☒ AGE☒ RETALIATION☒ OTHER (Specify) HANDICAP

DATE MOST RECENT OR CONTINUING DISCRIMINATION TOOK PLACE (Month, day, year)

FEBRUARY 15, 2000

THE PARTICULARS ARE (If additional space is needed, attached extra sheet(s)):

"SEE ATTACHMENT"

☐ I also want this charge filed with the EEOC. I will advise the agencies if I change my address or telephone number and I will cooperate fully with them in the processing of my charge in accordance with their procedures.

I declare under penalty of perjury that the foregoing is true and correct.

Robert L. Johnson

Date

Charging Party (Signature)

NOTARY - (When necessary to meet State and Local Requirements)

I swear or affirm that I have read the above charge and that it is true to the best of my knowledge, information and belief.

SIGNATURE OF COMPLAINANT

Robert L. Johnson
SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE
(Day, month, and year)

8-11-00

Charles Michael
MA COMMISSION EXPIRES 5/24/07

ATTACHMENT A

I am 51 years old, (d.o.b. 12-07-48), and a disable veteran who has spent 25 years on the Sandwich, MA Police Force, 13 of those years as a sergeant. I suffer from a mildly disabling (10%) skin condition acquired in Vietnam which does not interfere with my ability to perform police work. In 1997, the Chief of Police position became available and I indicated my interest, passed the necessary examinations and screening and was considered one of two finalists. Both finalists were ultimately passed over in favor of Michael Miller who is not disabled, is younger, and is significantly less experienced than myself. Miller was sworn in as Chief of Police on February 15, 2000.

During the selection process, I was told that the Town did not want any disabled Veterans in the Chief's job. Selectwoman Mary Gail Alesse made these remarks and also stated that "We don't want a Chief coming in the front door in a wheelchair." These sentiments were echoed as well by other Town of Sandwich Selectmen. I was also told that I was "too old for the Chief position" angrily by Selectman Robert Jones. Both Alesse and Jones were involved in the decision making process.

After making my displeasure known regarding the Town's discriminatory acts, I became the victim of retaliation. Shortly after Michael Miller assumed the Chief's position. I was relieved of my plain clothes daytime detective sergeant duties and reassigned as a road supervisor in a cruiser and wearing a standing police uniform. This was done despite the Detectives Division's having solved every major crime they investigated during the year previous. I had also served as interim Chief of Police when the Chief or Acting Chief was out of town. This position too was taken from me causing me to lose stature with other officers on the force.

Therefore, I charge the Respondent with unlawful discrimination against me in violation of Massachusetts General Laws c. 151B § 4, the Age Discrimination in Employment Act 29 U.S.C. §621 et seq and Americans with disabilities Act 42 U.S.C. §12101 et seq.

The Commonwealth of Massachusetts
Commission Against Discrimination

DOCKET NUMBER:00132499
FILING DATE:08-15-2000

16CA0 2520
EEOC/HUD NUMBER:
VIOLATION DATE:02/15/00

Name of Aggrieved Person or Organization:

Robert L. Johnson
5 Moody Drive
Sandwich, MA 02563
Telephone Number: (508) 888-0755

Named is the employer, labor organization, employment agency, or state/local government agency who discriminated against me:

Town Of Sandwich
Human Resources Department
Municipal Building
130 Main Street
Sandwich, MA 02563
Telephone Number:(508) 888-4910

No. of Employees:20 +

Work Location: Sandwich, MA

Cause of Discrimination based on:

Age
Disability
Other.
(Age of Complainant, specified
Skin disease or defect (including irregular pigmentation)
Paragraph 4, Retaliation).

The particulars are:

I, Robert L. Johnson, the Complainant believe that I was discriminated against by Town Of Sandwich, on the basis of Age Disability Other. This is in violation of M. G. L. Chapter 151B S4 P 1B+16+4.

Please see attached.

I swear or affirm that I have read this complaint and that it is true to the best of my knowledge, information and belief.

(Signature of Complainant)

SWORN TO AND SUBSCRIBED BEFORE ME THIS 16th Day of August, 2000

NOTARY PUBLIC: _____

SIGNATURE NOTARY PUBLIC: _____ MY COMMISSION
EXPIRES: _____

EXHIBIT "E"

DISMISSAL AND NOTICE OF RIGHTS

To: **Robert L. Johnson**
5 Moody Drive
Sandwich, MA 02563

From: **Boston Area Office**
John F. Kennedy Fed Bldg
Government Ctr, Room 475
Boston, MA 02203

☐ On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1601.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

16C-2000-02520

Anne R. Giantonio,
Intake Supervisor

(617) 565-3189

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans with Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☐ Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- ☐ While reasonable efforts were made to locate you, we were not able to do so.
- ☐ You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.
- ☐ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☒ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit **must be filed WITHIN 90 DAYS** of your receipt of this Notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that **backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.**

On behalf of the Commission

JUN 7 - 2004

Enclosure(s)


Robert L. Sanders,
Director

(Date Mailed)

cc: **T-SANDWICH**
Municipal Building}130 Main St
Reet
Sandwich, MA 02563

Enclosure with EEOC
Form 161 (3/98)

INFORMATION RELATED TO FILING SUIT UNDER THE LAWS ENFORCED BY THE EEOC

(This information relates to filing suit in Federal or State court under Federal law. If you also plan to sue claiming violations of State law, please be aware that time limits and other provisions of State law may be shorter or more limited than those described below.)

PRIVATE SUIT RIGHTS -- Title VII of the Civil Rights Act, the Americans with Disabilities Act (ADA), or the Age Discrimination in Employment Act (ADEA):

In order to pursue this matter further, you must file a lawsuit against the respondent(s) named in the charge within 90 days of the date you receive this Notice. Therefore, you should **keep a record of this date**. Once this 90-day period is over, your right to sue based on the charge referred to in this Notice will be lost. If you intend to consult an attorney, you should do so promptly. Give your attorney a copy of this Notice, and its envelope, and tell him or her the date you received it. Furthermore, in order to avoid any question that you did not act in a timely manner, it is prudent that your suit be filed **within 90 days of the date this Notice was mailed to you** (as indicated where the Notice is signed) or the date of the postmark, if later.

Your lawsuit may be filed in U.S. District Court or a State court of competent jurisdiction. (Usually, the appropriate State court is the general civil trial court.) Whether you file in Federal or State court is a matter for you to decide after talking to your attorney. Filing this Notice is not enough. You must file a "complaint" that contains a short statement of the facts of your case which shows that you are entitled to relief. Your suit may include any matter alleged in the charge or, to the extent permitted by court decisions, matters like or related to the matters alleged in the charge. Generally, suits are brought in the State where the alleged unlawful practice occurred, but in some cases can be brought where relevant employment records are kept, where the employment would have been, or where the respondent has its main office. If you have simple questions, you usually can get answers from the office of the clerk of the court where you are bringing suit, but do not expect that office to write your complaint or make legal strategy decisions for you.

PRIVATE SUIT RIGHTS -- Equal Pay Act (EPA):

EPA suits must be filed in court within 2 years (3 years for willful violations) of the alleged EPA underpayment: back pay due for violations that occurred **more than 2 years (3 years) before you file suit** may not be collectible. For example, if you were underpaid under the EPA for work performed from 7/1/00 to 12/1/00, you should file suit **before 7/1/02 -- not 12/1/02** -- in order to recover unpaid wages due for July 2000. This time limit for filing an EPA suit is separate from the 90-day filing period under Title VII, the ADA or the ADEA referred to above. Therefore, if you also plan to sue under Title VII, the ADA or the ADEA, in addition to suing on the EPA claim, suit must be filed within 90 days of this Notice and within the 2- or 3-year EPA back pay recovery period.

ATTORNEY REPRESENTATION -- Title VII and the ADA:

If you cannot afford or have been unable to obtain a lawyer to represent you, the U.S. District Court having jurisdiction in your case may, in limited circumstances, assist you in obtaining a lawyer. Requests for such assistance must be made to the U.S. District Court in the form and manner it requires (you should be prepared to explain in detail your efforts to retain an attorney). Requests should be made well before the end of the 90-day period mentioned above, because such requests do not relieve you of the requirement to bring suit within 90 days.

ATTORNEY REFERRAL AND EEOC ASSISTANCE -- All Statutes:

You may contact the EEOC representative shown on your Notice if you need help in finding a lawyer or if you have any questions about your legal rights, including advice on which U.S. District Court can hear your case. If you need to inspect or obtain a copy of information in EEOC's file on the charge, please request it promptly in writing and provide your charge number (as shown on your Notice). While EEOC destroys charge files after a certain time, all charge files are kept for at least 6 months after our last action on the case. Therefore, if you file suit and want to review the charge file, **please make your review request within 6 months of this Notice**. (Before filing suit, any request should be made within the next 90 days.)

IF YOU FILE SUIT, PLEASE SEND A COPY OF YOUR COURT COMPLAINT TO THIS OFFICE.

FACTS ABOUT FILING AN EMPLOYMENT DISCRIMINATION SUIT IN FEDERAL COURT IN STATE OF MASSACHUSETTS

You have received a document which is the final determination or other final action of the Commission. This ends our handling of your charge. The Commission's action is effective upon receipt. Now, you must decide whether you want to file a private lawsuit in court. This fact sheet answers several commonly asked questions about filing a private lawsuit.

WHERE SHOULD I FILE MY LAWSUIT?

Federal District Courts have strict rules concerning where you may file a suit. You may file a lawsuit against the respondent (employer, union, or employment agency) named in your charge. The appropriate court is the district court which covers either the county where the respondent is located or the county where the alleged act of discrimination occurred. A law suit can be filed at the following U.S. District Court locations in Massachusetts.

- The United States District Court for the District of Massachusetts located at The John Joseph Moakley U.S. Courthouse, 1 Courthouse Way, Suite 2300, Boston, MA 02210, or by contacting the Clerk of the Court Office at (617) 748-9152
- The United States District Court for the District of Massachusetts located at Donohue Federal Building & Courthouse, 595 Main Street, Room 502, Worcester, MA 01608, by contacting the Clerk of the Court Office at (508) 929-9000
- The United States District Court for the District of Massachusetts located at the Federal Building & Courthouse, 1550 Main Street, Springfield, MA 01103, or by contacting the Clerk of the Court Office at (413) 785-0214

WHEN MUST I FILE MY LAWSUIT?

Your private lawsuit **must** be filed in U.S. District Court within 90 days of the date you receive the enclosed final action. Once this 90-day period is over, unless you have filed suit, you will have lost your right to sue.

(Over)

DO I NEED A LAWYER?

No, you do not need a lawyer to file a private suit. You may file a complaint in federal court without a lawyer which is called a *pro se* complaint. Every district court has either a clerk or staff attorney who can assist you in filing *pro se*. To find out how to file a *pro se* complaint, contact the clerk of the court having jurisdiction over your case who can advise you of the appropriate person to assist you and of the procedures to follow, which may vary from district to district.

You may, however, wish to retain a lawyer in order to adequately protect your legal rights. Whether you retain a private attorney, or file *pro se*, you must file your suit in the appropriate court within 90 days of receiving this mailing.

WHAT IF I WANT A LAWYER BUT I CAN'T AFFORD ONE?

If you can't afford a lawyer, the U.S. District Court which has jurisdiction may assist you in obtaining a lawyer. You must file papers with the court requesting the appointment of counsel. You should consult with the office of the district court that assists *pro se* complainants for specific instructions on how to seek counsel. The appointment of counsel in any *pro se* complaint is always at the discretion of the court.

Generally, the U.S. District Court charges a \$120.00 filing fee to commence a lawsuit. However, the court may waive the filing fee if you cannot afford to pay it. You should ask the office of the District Court that assists *pro se* complainants for information concerning the necessary procedure to request that the filing fee be waived.

HOW CAN I FIND A LAWYER?

These are several attorney referral services operated by bar or other attorney organizations which may be of assistance to you in finding a lawyer to assist you in ascertaining and asserting your legal rights:

American Bar Association
(312) 988-5522

The Massachusetts State Bar Association
Toll free (866) 627-7577

National Employment Lawyers Association Referral Service
(212) 819-9450 (617) 654-0400

Your County, City, or Municipal Lawyers or Bar Association may also be of assistance.

HOW LONG WILL THE EEOC RETAIN MY CASE FILE?

Generally, the Commission's rules call for your charge file to be destroyed after 2 years from the date of a no cause determination or six months after other types of final actions. If you file suit, and wish us to retain your file for more than the normal retention period, you or your attorney should forward a copy of your court complaint to this office within 10 days after you file suit. If You File Suit, You or Your Attorney Should Also Notify this Office When the Lawsuit is Resolved.

EXHIBIT "F"

Law Offices Of

James R. McMahon, III, P.C.

25 Main Street, Second Floor

Post Office Box 313

Buzzards Bay, MA 02532-0313

Of Counsel:

James R. McMahon, Jr., Esquire

E-mail: attorney@capecod.net

Tel: (508) 759-9099

Fax: (508) 759-1353

Paralegal:

Shelley A. E. McMahon

September 2, 2004

HAND DELIVERED

Tony Anastas, Clerk
United States District Court
District of Massachusetts
John J. Moakley U.S. Courthouse
1 Courthouse Way
Boston, MA 02210

04-11937 DPW

Re: Robert L. Johnson
Vs: Town of Sandwich, MaryGail Alesse,
Patrick R. Ellis, Robert S. Jones,
Diane T. Tucker, John S. Gillson,
Jan L. Teehan, and George H. Dunham

Dear Mr. Anastas:

Enclosed herewith for filing in the above-captioned matter,
please find the following documents:

1. Civil Cover Sheets;
2. Verified Complaint;
3. Plaintiff's Demand for Trial by Jury; and,
4. Filing fee in the amount of \$150.00.

Kindly enter the docket number on the copy of the first page
of our copy of the complaint, and return to us ten (10) summonses.

If you have any questions regarding any of this, please feel
free to contact me.

Sincerely yours,

James R. McMahon, III
James R. McMahon, III

JRM:jrg

Enclosures

cc: Robert L. Johnson

JS 44 (Rev. 3/99)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Robert L. Johnson

DEFENDANTS

Town of Sandwich, et al

(b) County of Residence of First Listed Plaintiff Parnstable
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Parnstable
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)
Law Offices of James R. McMahon, III
25 Main Street, Second Floor
Post Office Box 313
Buzzards Bay, MA 02532
PPO#552111

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
☒ 2 U.S. Government Defendant
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (For Diversity Cases Only)

- Citizen of This State ☐ 1 ☐ 1 DEF
Incorporated or Principal Place of Business in This State ☐ 4 ☐ 4
Citizen of Another State ☐ 2 ☐ 2
Incorporated and Principal Place of Business in Another State ☐ 5 ☐ 5
Citizen or Subject of a Foreign Country ☐ 3 ☐ 3 Foreign Nation ☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury—Med. Malpractice <input type="checkbox"/> 365 Personal Injury—Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIW C/DIW W (405 (g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce/ICC Rates/etc. <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes <input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input checked="" type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	FEDERAL TAXSUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609

V. ORIGIN (PLACE AN "X" IN ONE BOX ONLY)

- ☒ 1 Original Proceeding
☐ 2 Removed from State Court
☐ 3 Remanded from Appellate Court
☐ 4 Reinstated or Reopened
☐ 5 Transferred from another district (specify)
☐ 6 Multidistrict Litigation
☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

(Cite the U.S. Civil Statute under which you are filing and write brief statement of cause. Do not cite jurisdictional statutes unless diversity.)

Employment Discrimination as to age and disabled American Veteran

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND: ☒ Yes ☐ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE
E

SIGNATURE OF ATTORNEY OF RECORD

DOCKET NUMBER

DATE

FOR OFFICE USE ONLY

RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

1. Title of case (name of first party on each side only) Robert L. Johnson
Town of Sandwich, et al
2. Category in which the case belongs based upon the numbered nature of suit code listed on the civil cover sheet. (See local rule 40.1(a)(1)).
- ☒ I. 160, 410, 470, R.23, REGARDLESS OF NATURE OF SUIT.
- ☒ II. 195, 368, 400, 440, 441-444, 540, 550, 555, 625, 710, 720, 730, 740, 790, 791, 820*, 830*, 840*, 850, 890, 892-894, 895, 950. *Also complete AO 120 or AO 121 for patent, trademark or copyright cases
- ☐ III. 110, 120, 130, 140, 151, 190, 210, 230, 240, 245, 290, 310, 315, 320, 330, 340, 345, 350, 355, 360, 362, 365, 370, 371, 380, 385, 450, 891.
- ☐ IV. 220, 422, 423, 430, 460, 510, 530, 610, 620, 630, 640, 650, 660, 690, 810, 861-865, 870, 871, 875, 900.
- ☐ V. 150, 152, 153.
3. Title and number, if any, of related cases. (See local rule 40.1(g)). If more than one prior related case has been filed in this district please indicate the title and number of the first filed case in this court.
4. Has a prior action between the same parties and based on the same claim ever been filed in this court?
5. Does the complaint in this case question the constitutionality of an act of congress affecting the public interest? (See 28 USC §2403) YES ☐ NO ☒
- If so, is the U.S.A. or an officer, agent or employee of the U.S. a party? YES ☐ NO ☒
6. Is this case required to be heard and determined by a district court of three judges pursuant to title 28 USC §2284? YES ☒ NO ☒
7. Do all of the parties in this action, excluding governmental agencies of the united states and the Commonwealth of Massachusetts ("governmental agencies"), residing in Massachusetts reside in the same division? - (See Local Rule 40.1(d)).
- A. If yes, in which division do all of the non-governmental parties reside? YES ☒ NO ☐
- Eastern Division ☒ Central Division ☐ Western Division ☐
- B. If no, in which division do the majority of the plaintiffs or the only parties, excluding governmental agencies, residing in Massachusetts reside?
- Eastern Division ☐ Central Division ☐ Western Division ☐
8. If filing a Notice of Removal - are there any motions pending in the state court requiring the attention of this Court? (If yes, submit a separate sheet identifying the motions) YES ☐ NO ☐
- (PLEASE TYPE OR PRINT)
- ATTORNEY'S NAME James R. McMahon, III
- ADDRESS 25 Main Street, Second Floor, Post Office Box 313, Buzzards Bay, MA 02532
- TELEPHONE NO. (509) 759-9099

EXHIBIT "G"

DEC-06-2004 11:36

SANDWICH TOWN ADMIN

5088338045 P.02

EEOC Form 161 (3/98)

U.S. EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

DISMISSAL AND NOTICE OF RIGHTS

To: Robert L. Johnson
5 Moody Drive
Sandwich, MA 02563

From: Boston Area Office
John F. Kennedy Fed Bldg
Government Ctr, Room 475
Boston, MA 02203

SELECTMEN

DEC 2 2004

RECEIVED

☐ On behalf of person(s) aggrieved whose identity is
CONFIDENTIAL (29 CFR § 1001.7(a))

EEOC Charge No.

EEOC Representative

Telephone No.

18C-2000-02520

Anne R. Giantonio,
Intake Supervisor

(617) 565-3189

THE EEOC IS CLOSING ITS FILE ON THIS CHARGE FOR THE FOLLOWING REASON:

- ☐ The facts alleged in the charge fail to state a claim under any of the statutes enforced by the EEOC.
- ☐ Your allegations did not involve a disability as defined by the Americans with Disabilities Act.
- ☐ The Respondent employs less than the required number of employees or is not otherwise covered by the statutes.
- ☐ Your charge was not timely filed with EEOC; in other words, you waited too long after the date(s) of the alleged discrimination to file your charge.
- ☐ Having been given 30 days in which to respond, you failed to provide information, failed to appear or be available for interviews/conferences, or otherwise failed to cooperate to the extent that it was not possible to resolve your charge.
- ☐ While reasonable efforts were made to locate you, we were not able to do so.
- ☐ You were given 30 days to accept a reasonable settlement offer that affords full relief for the harm you alleged.
- ☐ The EEOC issues the following determination: Based upon its investigation, the EEOC is unable to conclude that the information obtained establishes violations of the statutes. This does not certify that the respondent is in compliance with the statutes. No finding is made as to any other issues that might be construed as having been raised by this charge.
- ☒ The EEOC has adopted the findings of the state or local fair employment practices agency that investigated this charge.
- ☐ Other (briefly state)

- NOTICE OF SUIT RIGHTS -

(See the additional information attached to this form.)

Title VII, the Americans with Disabilities Act, and/or the Age Discrimination in Employment Act: This will be the only notice of dismissal and of your right to sue that we will send you. You may file a lawsuit against the respondent(s) under federal law based on this charge in federal or state court. Your lawsuit must be filed WITHIN 90 DAYS of your receipt of this Notice; or your right to sue based on this charge will be lost. (The time limit for filing suit based on a state claim may be different.)

Equal Pay Act (EPA): EPA suits must be filed in federal or state court within 2 years (3 years for willful violations) of the alleged EPA underpayment. This means that backpay due for any violations that occurred more than 2 years (3 years) before you file suit may not be collectible.

On behalf of the Commission



Robert L. Sanders,
Area Office Director

NOV 30 2004

(Date Mailed)

Enclosure(s)

cc: T-SANDWICH
Municipal Building 130 Main St
Rt 1
Sandwich, MA 02563

TOTAL P.02